

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

v.

3.17 ACRES OF LAND, MORE OR
LESS, SITUATED IN STARR COUNTY,
TEXAS; AND JUAN MONTALVO,
ET AL.,
Defendants.

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CASE NO. 7:08-CV-177

JOINT STATUS REPORT

On December 9, 2020, the Court set a deadline for the United States of America (hereinafter “United States”) to file a status report by February 5, 2021¹. Pursuant to that Order, the United States and Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez hereby inform the Court as follows:

1. At the status conference on October 21, 2019, the Court ratified the United States’ plan to file a joint motion requesting partial judgment for each tract as the issue of just compensation was resolved, with the joint motion for the final tract requesting a final judgment for the case in its entirety.

2. On July 27, 2020, the Court entered an Order² granting the following: (1) Amended Joint Motion for Order Establishing Just Compensation for Tracts RGV-RGC-1079 and RGV-RGC-1079E, Granting Possession, and Distributing Funds on Deposit in the Registry of the Court³, (2) Joint Motion for Order Establishing Just Compensation, Granting Possession, and Distributing

¹ Dkt. No. 160.

² Dkt. No. 139.

³ Dkt. No. 113.

Funds on Deposit in the Registry of the Court as to Tract RGV-RGC-1104⁴, and (3) Joint Motion for Order Establishing Just Compensation, Granting Possession, and Distributing Funds on Deposit in the Registry of the Court for Tract RGV-RGC-1081⁵.

3. On January 25, 2021, the Court entered an Order⁶ granting the: (1) Joint Motion for Order Establishing Just Compensation, Granting Possession, and Distributing Funds on Deposit in the Registry of the Court for Tracts RGV-RGC-1080, RGV-RGC-1077 & RGV-RGC-1077E⁷ and (2) Joint Motion for Order Establishing Just Compensation, Granting Possession, and Distributing Funds on Deposit in the Registry of the Court for Tracts RGV-RGC-1082⁸.

4. As a result, the following are the only tracts remaining in this case:

Tract RGV-RGC-1078 and 1078E

5. On December 9, 2020, the Court reset the December 15, 2020 status conference to February 16, 2021, at the request of Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez so they could have additional time to grieve their mother's passing and consider the United States' counteroffer from July 27, 2020.⁹

6. On February 2, 2021, Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez informed the United States they are unable to make a final decision on the pending counteroffer in light of President Biden's January 20, 2021 Presidential Proclamation terminating the national emergency at the southern border of the United States and directing "a careful review of all

⁴ Dkt. No. 122.

⁵ Dkt. No. 133.

⁶ Dkt. No. 161.

⁷ Dkt. No. 157.

⁸ Dkt. No. 158.

⁹ Dkt. No. 160.

resources appropriated or redirected to construct a southern border wall” through the development of “a plan for the redirection of funds concerning the southern border wall.”¹⁰

7. The Proclamation calls for a “careful review of *all* resources appropriated or redirected to construct a southern border wall”¹¹ and requires a plan be developed within 60 days from the date of the Proclamation.¹²

8. Tracts RGV-RGC-1078 and 1078E were acquired under the Secure Fence Act of 2006¹³, and title has vested in the United States by operation of law.¹⁴

9. To date, there has been no construction on Tracts RGV-RGC-1078 and 1078E and the United States has not yet obtained possession of these tracts.

CONCLUSION

Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez are requesting a forty-five (45) day continuance of the status conference set for February 16, 2021, to determine whether the Proclamation will impact the United States’ necessity for Tracts RGV-RGC-1078 and 1078E. The United States is unopposed to Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez’s request for additional time.

¹⁰ Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

¹¹ *Id.* (emphasis added).

¹² *Id.* at Sec. 2.

¹³ Dkt. Nos. 2 at Schedule A, 23 at Schedule AA.

¹⁴ Upon the filing of the Declaration of Taking and depositing the estimated compensation in the Registry of the Court, the following events occur by operation of law: “(1) title to the estate or interest specified in the declaration vests in the Government; (2) the land is condemned and taken for the use of the Government; and (3) the right to just compensation for the land vests in the persons entitled to the compensation.” 40 U.S.C. § 3114(b); *see* Dkt. Nos. 2, 4.

Respectfully submitted,

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TEXAS CIVIL RIGHTS PROJECT

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CERTIFICATE OF SERVICE

I certify that on February 5, 2021, a copy of the foregoing was electronically filed in the CM/ECF system, which will automatically serve a Notice of Electronic Filing on counsel of record.

By: *s/ Megan Eyes*
MEGAN EYES
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